

cc

Notice of Allowability

Application No.

10/733,122

Examiner

Thong Q. Nguyen

Applicant(s)

FUKAYA ET AL.

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of 12/30/05.
2. ☒ The allowed claim(s) is/are 1-2 and 4-14 which are renumbered as claims 1-13.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 12/30/05
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

**THONG NGUYEN
PRIMARY EXAMINER**

DETAILED ACTION

Response to Amendment

1. The present Office action is made in response to the amendment filed on 12/20/2005. It is noted that in the amendment, applicant has amended claims 1-2 and canceled claims 3 and 15-23. The pending claims 1-2 and 4-14 are examined in this Office action.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

3. The drawings contained eight sheets of figures 1-13 were received on 12/11/03. These drawings are approved by the Examiner.

EXAMINER'S AMENDMENT

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the claim(s):

In claim 1, on line 5, changed "the luminous flux " to – a luminous flux--.

It is noted that the feature thereof "the luminous flux" recited on line 5 of the claim 1 lacks a proper antecedent basis. A suggestion to correct the claim was raised

to applicant on last Office action and the amendment to claim 1 as made in the amendment of 12/20/05 is insufficient to overcome the objection.

Allowable Subject Matter

5. Claims 1-2 and 4-14 are allowed.

6. The following is an examiner's statement of reasons for allowance:

The surgical microscope as recited in the independent claim 1 is patentable with respect to the cited art, in particular, the Patent Nos. 5,331,457; 4,364,629; and 6,327,079 and the Japanese reference No. 4-355712 by the limitations related to the splitting optical system, the pupil splitting optical system and the second housing supporting the second binocular eyepiece optical system as claimed. It is noted that the use of a housing for supporting a splitting system and a pupil splitting system is disclosed in the art as can be seen in each of the Patent '457 and 629 and the Japanese reference '712; however, the cited art does not disclose a microscope having a splitting system for splitting a light beam into a plurality of light beams having a second light beam, a pupil splitting system for splitting one of the light beam splitted by the splitting system to provide a third light beam, and a second housing supporting an eyepiece rotates from a first rotational angle to a second rotational angle wherein in the first rotational angle, the eyepiece forms an image from the second light beam and in the second rotational angle, the eyepiece forms an image from the third light beam.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

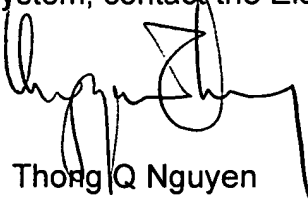
Conclusion

7. The prior art cited in the IDS of 12/20/05 made of record and not relied upon is considered pertinent to applicant's disclosure. The Japanese reference No. 4-355712 listed in the form Pto-A829 has been lined through because that reference was considered and listed in the form PTO-892 which a copy thereof was mailed to applicant on the last Office action of 10/26/05.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q. Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thong Q. Nguyen

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